IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT APPEAL NO : 992 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 05/10/2004 in WP NO : 12706 OF 2004 on the file of the High Court.)

Between:

V.V. Prasad, S/o Late Sri Veeramachineni Prakash rao
Veeramachineni Pushkaramba R/o 33-4-1,

Mogalrajapuram, Vijayawada

..... APPELLANT

AND

1 The Commissioner, Municipal Corporation of Vijayawada,

Krishna District
2 The District Collector, Krishna District
3 The Sub-Collector, Vijayawada, Krishna District

.....RESPONDENTS

Counsel for the Appellant: MR.C.RAGHU

Counsel for the Respondent No.1: Ms.G.Jhansi, Standing Counsel for Municipal Corporation of Vijayawada.

Counsel for Respondents 2 & 3: G.P.for Revenue.

The Court at the stage of admission made the following :

-

-

-

-

-

-

-

-

-

-

J U D G M E N T (Per the Hon'ble Sri Bilal Nazki, ACJ)

-

Heard learned counsel for the appellant.

The land has been acquired in terms of the provisions of the Land Acquisition Act, 1894. Award has already been passed for an amount of Rs.3,86,317/-. The petitioner has refused to receive the amount and the same has been deposited. The acquisition notice, issued under Section 4(1) of the Land Acquisition Act, is challenged on the ground that the Municipality had to proceed in terms of Section 146 of the Hyderabad Municipal Corporation Act, 1955 (for short "the HMC Act). Section 146 of the HMC Act and Section 4 of the Land Acquisition Act operate in two different fields. When the Municipal Commissioner wants to acquire land by negotiations Section 146 of the HMC Act would apply, whereas if the Government wants to acquire land even without the consent of the owner of the land, recourse will have to be taken to the Land Acquisition Act. In terms of Section 146 of the HMC Act, it is not possible to acquire any land by the Municipal Commissioner except with the agreement of the owner of the land. As such, the argument is misplaced. We do not find any ground to interfere with the order of the learned Single Judge. The writ appeal is devoid of merit and is accordingly dismissed. No order as to costs.

_____

(Bilal Nazki, ACJ)

14th June, 2005

_____

(G.Chandraiah,J)

vrn

To

1 The Commissioner, Municipal Corporation of Vijayawada,

Krishna District
2 The District Collector, Krishna District
3 The Sub-Collector, Vijayawada, Krishna District

4 Two C.Cs to the G.P.for Revenue, High Court Buildings, A.P.,

Hyderabad (OUT)

5 Two CD copies